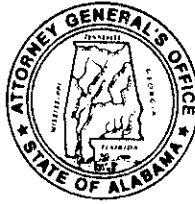


OFFICE OF THE ATTORNEY GENERAL

81-00055



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

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ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205), 834-5150

LEE L. HALE
DEPUTY ATTORNEY GENERAL
WILLIAM M. BEKURS, JR.
EXECUTIVE ASSISTANT
WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL
JANIE NOBLES
ADMINISTRATIVE ASSISTANT

Hon. William J. Davis, Director
Department of Industrial Relations
Industrial Relations Building
Montgomery, Alabama 36130

Workmen's Compensation--
Entitlement of injured
worker to the statutory
minimum when receiving
permanent partial benefits
when actual earnings are
less than stated minimum
under the Workmen's
Compensation Law.

When a worker making less
than the stated minimum
draws temporary total
disability, he is entitled
to an amount equal to his
weekly earnings. When the
same injury becomes a perma-
nent partial disability, the
statutorily prescribed mini-
mum and maximum are applicable.

Dear Mr. Davis:

Reference is made to your request for an opinion from
the Attorney General as to the following matter:

Is an injured worker entitled to the
statutory minimum when receiving
permanent partial benefits if his

actual earnings are less than the
stated minimum?

This question may be answered in the affirmative.

Since workmen's compensation is purely statutory in nature, one must look to the statutory provisions in making any determination. Also, keep in mind the Workmen's Compensation Act must be liberally construed to accomplish its beneficial purposes and all reasonable doubt resolved in favor of the employee. Alabama By-Products v. Landgraff, 27 So.2d 209 (1946); Riley v. Perkins, 213 So.2d 796 (1968); Dale Motels, Inc., v. Crittenden, 278 So.2d 370 (1973).

The Workmen's Compensation Act provides statutory monetary benefits to a worker when injured on the job. Code of Alabama 1975, 25-5-57, is the statutory provision for establishing compensation disabilities. Section 25-5-57(a)(1) is the compensation schedule for "Temporary Total Disability" and provides in part:

"For injury producing temporary total disability, the compensation shall be 66 2/3 percent of the average weekly earnings received at the time of injury, subject to a maximum and minimum weekly compensation as stated in §25-5-68, but if at the time of injury the employee received average weekly earnings of less than the minimum stated in §25-5-68, then he shall receive the full amount of such average weekly earnings per week. . ."
(emphasis supplied)

Section 25-5-57(3)(a) is the schedule for "Permanent Partial Disability" and provides in part:

"For permanent partial disability, the compensation shall be based upon the extent of such disability. In cases included in the following schedule, the compensation shall be 66 2/3 percent of the average weekly earnings, during the number of weeks set out in the following schedule. . ."

Section 25-5-57(3)(f) provides:

"All compensation provided in this subsection (a) for loss of members or loss of use of members is subject to the same limitation as to maximum and minimum weekly compensation as stated in §25-5-68." (emphasis supplied)

Section 25-5-68 states:

"The minimum and maximum benefits that are in effect on the date of the accident which results in injury or death shall be applicable for the full period during which compensation is payable."

As stated in your request, for the purpose of this opinion, the maximum is One Hundred Thirty-four Dollars (\$134) per week and the minimum is Fifty-one Dollars (\$51) per week and the worker was only making Forty-seven Dollars (\$47) per week.

It is well accepted that words of a statute should be given their ordinary and normal meaning, Darks Dairy, Inc., v. Alabama Dairy Commission, 367 So.2d 1378 (1979), and where the words of a statute are plain, there is no room for construction; if the language is clear, it is conclusive. Hodgson v. Mauldin, 344 F.Supp. 302, affirmed 478 F.2d 702, rehearing denied 480 F.2d 924 (1972), Alabama Industrial Bank v. State ex rel., Avinger, 237 So.2d 108 (1970)

Therefore, it is clear that under §25-5-57(a)(1) the maximum and minimum as set forth in §25-5-68 apply except when the worker is making less than the minimum. This exception is clear and specifically noted in the section. However, under permanent partial disability there is no such proviso and the language is clear that the compensation is subject only to the maximum and minimum as provided in §25-5-68, without further exception as was provided in §25-5-57(a)(1).

The establishment of maximum and minimum benefit amounts in §25-5-68 apply only to the monetary amount and not to their application. The application of these amounts is determined by the specific statutory sections invoking their limitations, except where there exists a proviso as in §25-5-57(a)(1). Section 25-5-68 prevents the fluctuation of the maximum and minimum and keeps these amounts constant during the period for which compensation is payable.

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Therefore, in our opinion, when a worker making Forty-seven Dollars (\$47) per week draws temporary total disability under §25-5-57(a)(1) applies because of the exception to the minimum contained therein, he would be entitled to his earnings of Forty-seven Dollars (\$47) per week. However, when the same injury becomes a permanent partial disability, §25-5-57(3) applies and the maximum and minimum are in effect with no exception; thus, his weekly amount of benefits would be Fifty-one Dollars (\$51) or the minimum.

We hope this Opinion answers your question and if our office can be of further assistance, please do not hesitate to contact us.

Very truly yours,

CHARLES A. GRADDICK
Attorney General

By-


Harry A. Lyles
Special Assistant Attorney General

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